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November 23, 2004

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VIA HAND DELIVERY
The Honorable Alfred G. Nicols, Jr.
United States Magistrate Judge
245 E. Capitol Street, Room 502
Jackson, MS 39201

RE: *Olivia Y., et al. v. Barbour, et al.*, Civ. Action No. 304CV251LN

Dear Judge Nicols:

As you are probably aware, Judge Lee issued his Memorandum Opinion and Order regarding Defendants' motion to dismiss on November 19, 2004. As the June 17, 2004 Case Management Order instructed, we respectfully request a further scheduling order, to be arranged at Your Honor's earliest convenience.

At this scheduling conference, Plaintiffs will request that the stay of discovery be lifted. Additionally, Plaintiffs wish to point out to the Court that Defendants have not yet made the initial voluntary disclosures required by Fed. R. Civ. P. 26(a) and Local Rule 26.1(A)(1). Plaintiffs will, therefore, request at the scheduling conference that Defendants make such disclosures; Plaintiffs have already made their disclosures.

Also, the parties will need a further briefing schedule for Plaintiffs' Motion for Class Certification, the resolution of which was stayed. Without waiving any rights of appeal, Plaintiffs understand that all claims on behalf of the proposed Protective Services Class have been dismissed by Judge Lee's Memorandum Opinion. As a result, we understand that class certification as to that proposed class will be denied. Class certification continues to be appropriate and necessary, however, on behalf of the proposed In-Custody Class, i.e., "all children who are or will be in the legal and/or physical custody of DFCS", for the substantive due process claims. While Plaintiffs can file an amended Motion for Class Certification to reflect the current scope of the proposed Class if the Court requires it, the clear distinction between the two proposed classes may make this unnecessary.

We look forward to discussing these issues with Your Honor. Please feel free to contact me if you should have any questions or concerns.

Very truly yours,

Wayne Drinkwater

cc: Harold Pizzetta, Esq.
Betty Mallett, Esq.

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